

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOE R. McBRIDE,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-05-538-M
)	
MAJOR CLIFF URANGA, et al.,)	
)	
Defendants.)	

ORDER

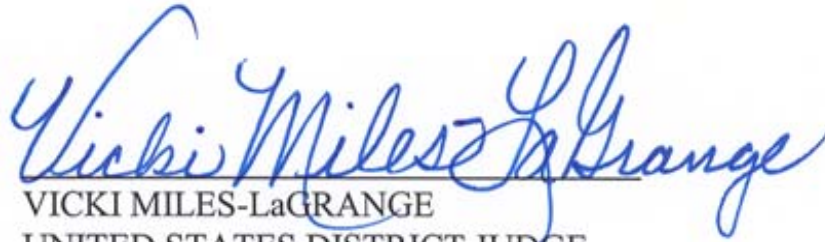
On September 21, 2005, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this civil rights action brought pursuant to 42 U.S.C. § 1983. The Magistrate Judge recommended that this action be dismissed upon filing under 28 U.S.C. § 1915A and § 1915(e)(2)(B) for failure to state a claim for relief and that the dismissal of plaintiff's claims on this ground should count as one "strike" pursuant to 28 U.S.C. § 1915(g). Plaintiff was advised of his right to object to the Report and Recommendation by October 11, 2005. A review of the file reveals no objection has been filed.

Upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on September 21, 2005, and

- (2) DISMISSES this action pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim for relief. The Clerk of the Court is directed to note in docketing that this dismissal counts as one strike against plaintiff pursuant to 28 U.S.C. §1915(g).¹

IT IS SO ORDERED this 28th day of October, 2005.



VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE

¹Dismissal should count as a “prior occasion” only after plaintiff has exhausted or waived his right to appeal. *See Jennings v. Natrona County Detention Ctr. Med. Facility*, 175 F.3d 775, 780 (10th Cir. 1999).